

Limited Liability Companies

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What is an LLC?

The Beverly-Killea Limited Liability Company Act of 1994 (Stats.1994, Ch.1200) authorized the formation of LLCs in California and recognized out-of-state LLCs doing business in California. LLCs combine traditional corporate and partnership characteristics.

- LLCs classified as **partnerships or disregarded entities** generally determine their California income, deductions, and credits under Personal Income Tax Law.
- LLCs classified as **corporations** generally determine their California income under Corporation Tax Law.

Subsequent legislation permits an LLC with a single member to be disregarded for most tax purposes. A disregarded LLC must pay the LLC annual tax of \$800 and the LLC annual fee.

Filing requirements

1. Annual Tax

LLCs classified as **partnerships or disregarded entities** are subject to an \$800 annual tax if they are doing business in California, or the California Secretary of State accepts their articles of organization or certificate of registration. The annual tax is pre-paid for the privilege of doing business in California and is due on the 15th day of the fourth month after the beginning of the taxable year. LLCs must file a *Limited Liability Company Tax Voucher* (FTB 3522) to pay the annual tax.

First Year Annual Tax Due Date:

- A **domestic** LLC has until the 15th day of the third month after filing its articles of organization with the Secretary of State to pay the first year annual tax.
- If an **existing foreign** LLC registers or begins doing business in California after the 15th day of the fourth month of its taxable year, the first year annual tax is due immediately upon commencing business in California or registering with the Secretary of State.

Mail the LLC annual tax payment with FTB 3522 to:

FRANCHISE TAX BOARD
PO BOX 942857
SACRAMENTO CA 94257-0631

You can download FTB 3522 from our [Forms and Publications](#) page.

2. Annual Fee

LLCs are also subject to an annual fee based on their total income. Total income is defined as the sum of worldwide gross income plus cost of goods sold (California Revenue and Taxation Code Section 24271). The LLC fee is due on the original due date of the return, which is the 15th day of the fourth month following the close of its taxable year. Use Form 568 (*Limited Liability Company Return of Income*) to report income and the fee.

3. Nonresident Members

If an LLC has nonresident members, it must file *Limited Liability Company Nonresident Members' Consent* (FTB 3832) with Form 568. If the LLC fails to obtain form FTB 3832 on behalf of any nonresident member by the original due date of the tax return, then the LLC is responsible for payments of tax on each of its nonconsenting nonresident members' distributive share of income. This income is taxed at the members' highest marginal tax rate and is due with Form 568. Use Schedule T, *Nonconsenting Nonresident Members' Tax Liability* (found on Form 568, Side 2) to calculate and report this tax liability.

The completion of FTB 3832 or Schedule T does not satisfy the members' California filing requirement. All members must file a California tax return.

4. Form 568 (*Limited Liability Company Return of Income*)

An LLC subject to the LLC annual tax and fee must file Form 568 and pay the fee plus any nonconsenting nonresident member tax by the 15th day of the fourth month following the close of its taxable year. Mail Form 568 to:

FRANCHISE TAX BOARD
PO BOX 942857
SACRAMENTO CA 94257-0601

5. California Schedule K-1 (568), *Member's Shares of Income, Deductions, Credits, Etc.*

An LLC that has elected to be treated as a partnership for tax purposes uses Schedule K-1 (568) to report individual members' share of the LLC's income, deductions, credits, etc. We accept California Schedules K-1 (Form 568) in a paperless format via CD, diskette, or cartridge. Sending paperless Schedules K-1 reduces your paper, printing, storage, and mailing costs. Get more information about the [Paperless Schedules K-1 Program](#) from our website.

6. Extension of Time to File

We grant an automatic 6-month extension of time to file a return. The automatic extension will apply if the tax return is filed by the 15th day of the tenth month following the close of the taxable year. An extension of time to file is not an extension of time to pay. You must pay the full balance by the original due date of the return (the 15th day of the fourth month following the close of the taxable year) to avoid penalties and interest.

Note: The LLC must file *Payment Voucher for Automatic Extension for Limited Liability Companies* (FTB 3537) if it owes taxes and fees and cannot file its California return by the due date. Mail FTB 3537 with payment to:

FRANCHISE TAX BOARD
PO BOX 942857
SACRAMENTO CA 94257-0651

Billings and notices

We will bill LLCs classified as partnerships or disregarded entities for unpaid taxes or the fee. One of the following is mailed depending upon the filing situation for each LLC:

- Return Information Notice for failing to show the correct LLC annual tax, LLC fee, or nonconsenting nonresident members' taxes and applicable interest.
- Notice of Balance Due for failing to pay the LLC annual tax, LLC fee, or nonconsenting nonresident members' taxes plus applicable penalties and

	<p>interest.</p> <ul style="list-style-type: none"> • Past Due Notice for tax liabilities, penalties, and interest unpaid 45 days from the first notices' mail date. <p>LLCs may be subject to interest and penalties if: (1) the tax or fee is late or not paid; or, (2) the tax return is filed beyond the extended due date.</p> <p>We impose penalties under the following California Revenue and Taxation Code sections:</p> <ul style="list-style-type: none"> • Underpayment and Monthly (Section 19132) • Delinquent (Section 19131) • Late Filing (Section 19172) <p>No additional penalties or interest will accrue if we receive payment in full within 15 days of the notice date.</p>
Tax clearance	<p>Q. How do I cancel my LLC's registration?</p> <p>A. LLCs registered with the Secretary of State must file Form 568 and pay the annual tax and fees until cancelled by the Secretary of State. An LLC will take the following steps to cancel:</p> <p>DOMESTIC LLC (formed in California):</p> <p>Step 1 File returns for all delinquent tax years, including the final return. Step 2 Pay all outstanding tax liabilities, fees, penalties, and interest. Step 3 Mail returns and payments (steps 1 and 2) to the Franchise Tax Board (see Forms and Addresses). Step 4 File a <i>Certificate of Dissolution</i> (Form LLC-3). Step 5 File a <i>Certificate of Cancellation</i> (Form LLC-4/7). Step 6 File a <i>Request for Tax Clearance Certificate Limited Liability Company or Limited Liability Partnership</i> (FTB 3555L). Step 7 Mail documents (steps 4-6) to:</p> <p style="text-align: center;">DOCUMENT FILING SUPPORT UNIT SECRETARY OF STATE PO BOX 944228 SACRAMENTO CA 94244-2280</p> <p>Or deliver documents to:</p> <p style="text-align: center;">SECRETARY OF STATE 1500 11th STREET, THIRD FLOOR SACRAMENTO CA 95814</p> <p>FOREIGN LLC (formed in another state):</p> <p>Step 1 File returns for all delinquent tax years, including the final return. Step 2 Pay all outstanding tax liabilities, fees, penalties, and interest. Step 3 Mail returns and payments (steps 1 and 2) to the Franchise Tax Board (see Forms and Addresses). Step 4 File a <i>Certificate of Cancellation</i> (Form LLC-4/7). Step 5 File a <i>Request for Tax Clearance Certificate Limited Liability Company or Limited Liability Partnership</i> (FTB 3555L). Step 6 Mail documents (steps 4 and 5) to:</p> <p style="text-align: center;">DOCUMENT FILING SUPPORT UNIT SECRETARY OF STATE</p>

	<p>PO BOX 944228 SACRAMENTO CA 94244-2280</p> <p>You can also contact either of these state agencies at:</p> <p>LIMITED LIABILITY COMPANIES SECRETARY OF STATE PO BOX 944228 SACRAMENTO CA 94244-2280 Telephone: (916) 653-3795 Website: www.ss.ca.gov</p> <p>TAX CLEARANCE UNIT FRANCHISE TAX BOARD PO BOX 1286 MS C-1 RANCHO CORDOVA CA 95741-1286</p>
Forms and addresses	<p>LLCs classified as partnerships or disregarded entities file <i>Limited Liability Company Tax Voucher</i> (FTB 3522) and Form 568 (<i>Limited Liability Company Return of Income</i>).</p> <p>LLCs classified as a corporation file Form 100-ES (<i>Corporation Estimated Tax</i>) and Form 100 (<i>California Corporation Franchise or Income Tax Return</i>) or Form 100S (<i>California S Corporation Franchise or Income Tax Return</i>). Download the forms from our Forms and Publications page.</p> <p>Use <i>Payment Voucher for Automatic Extension for Limited Liability Companies</i> (FTB 3537). Download FTB 3537 from our Forms and Publications page.</p> <p>Mail your annual tax payment with <i>Limited Liability Company Tax Voucher</i> (FTB 3522) to:</p> <p>FRANCHISE TAX BOARD PO BOX 942857 SACRAMENTO CA 94257-0631</p> <p>If you owe a tax or fee, send your payment with a completed <i>Payment Voucher for Automatic Extension for Limited Liability Companies</i> (FTB 3537) to:</p> <p>FRANCHISE TAX BOARD PO BOX 942857 SACRAMENTO CA 94257-0651</p> <p>If you have nonresident members, file a signed <i>Limited Liability Company Nonresident Members' Consent</i> (FTB 3832) with Form 568 for each nonresident member. Form FTB 3832 is due by the tax return due date.</p> <p>If you have nonconsenting nonresident members, use Schedule T, <i>Nonconsenting Nonresident Members' Tax Liability</i>, (Form 568, Side 2) to calculate and report nonconsenting nonresident members' taxes to be paid by the LLC.</p>
Miscellaneous	<p>Q. How do I organize or register an LLC?</p> <p>A. For information about organizing or registering an LLC in California, visit the Secretary of State Website: www.ss.ca.gov or contact:</p> <p>LIMITED LIABILITY COMPANIES SECRETARY OF STATE</p>

PO BOX 944228
SACRAMENTO CA 94244-2280
Telephone: (916) 653-3795

Q. I never did any business or even opened a door, bank account or anything. Why do I owe the \$800 annual tax?

A. LLCs are subject to an annual tax of \$800 if they are doing business in California, or the California Secretary of State accepts their articles of organization or a certificate of registration. The annual tax is paid for the privilege of doing business in California even if the LLC did no business in California. An LLC is not subject to the tax if it did no business in California and the taxable year was 15 days or less.

Q. How are the fees calculated?

A. The LLC annual fee is based on total income reportable to California. Total income is defined as the sum of worldwide gross income plus cost of goods sold. (California Revenue and Taxation Code Section 24271)

If the total income is:		The fee amount is:				
Equal to or More Than	And Less Than	For 1994 & 1995	For 1996 - 1998	For 1999	For 2000	For 2001 & after
\$250,000	\$500,000	\$500	\$500	\$865	\$1,042	\$900
\$500,000	\$1,000,000	\$1,000	\$1,500	\$2,595	\$3,126	\$2,500
\$1,000,000	\$5,000,000	\$2,000	\$3,000	\$5,190	\$6,251	\$6,000
\$5,000,000 or more		\$4,000	\$4,500	\$7,785	\$9,377	\$11,790

Note: For tax years beginning on or after January 1, 2001, the definition of total income excludes amounts already included in the calculation of an LLC fee.

Example: ABC, LLC does business in California during 2001, and XYZ, LLC has 50% member interest in ABC. ABC has \$1,200,000 of total income during 2001. XYZ has \$900,000 of total income during 2001, which includes \$600,000 from ABC (\$1.2 million X 50% member interest).

The filing requirements are as follows:

Entity	2001 Form	Annual Tax	Total Income	LLC Fee
ABC, LLC	568	\$800	\$1,200,000	\$6,000
XYZ, LLC	568	\$800	\$300,000 (\$900,000-\$600,000)*	\$900

*For tax year 2001, XYZ excludes \$600,000 of total income because it was already used to calculate the fee of ABC.

Q. I'm a corporation that converted to an LLC during the current year. Am I liable for the tax as a corporation and as an LLC in the same year?

A. Yes. Each entity is responsible for its own taxes. An LLC is not subject to the tax if it did no business in California and the taxable year was 15 days or less.

Q. If I'm classified as a partnership for federal purposes and file federal Form 1065 (U.S. Partnership Return of Income), why am I required to file Form 568

(*Limited Liability Company Return of Income*) instead of Form 565 (*Partnership Return of Income*) for state purposes? And, do I still have to pay the fees?

A. Although California law uses the same entity classification as federal, an LLC classified as a partnership must file Form 568 (*Limited Liability Company Return of Income*) and pay an annual tax of \$800 and an annual fee based on total income if it meets the following conditions:

- Organized in California
- Registered with the Secretary of State to transact business in California
- Doing business in California (California Revenue and Taxation Code Section 23101)

An LLC with California source income that does not meet any of the requirements listed above is required to file Form 565 (*Partnership Return of Income*).

Q. If I have nonresident members, and cannot get all their signatures on the consent release form, can I still file the return?

A. Yes. If a nonresident member of an LLC refuses to sign the *Limited Liability Company Nonresident Members' Consent* (FTB 3832), the LLC must compute and pay the members' tax liability. See the instructions for Schedule T, *Nonconsenting Nonresident Members' Tax Liability* (Form 568, Side 2).



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